

**REMARKS**

In the Office Action of September 28, 2004, the Examiner rejected claims 1, 10, 14, and 16 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over US Patent No. 6,679,207 to Leman; objected to claim 15 because of an informality; rejected claims 1, 2, 10-12, and 14-17, under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 5,685,264 to Allen et al.; rejected claims 1, 10, 14, and 16 under 35 U.S.C. § 102(b) as being anticipated by US Patent No. 6,595,170 to Wiekmeijer; rejected claims 9 and 24, under 35 U.S.C. § 103(a) as being unpatentable over Allen et al in view of US Patent No. 5,829,397 to Vorih et al.; rejected claims 2, 15, and 17 under 35 U.S.C. § 103(a) as being unpatentable over Weikmeijer in view of Allen et al.; rejected claim 13 under 35 U.S.C. § 103(a) as being unpatentable over Allen et al. in view of US Patent No. 3,777,729 to Cote; and objected to claims 3-8 and 18-23 for being dependent upon a rejected base claim, but indicated that claims 3-8 and 18-23 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant wishes to thank the Examiner for the indication of allowable subject matter in claims 3-8 and 18-23. Applicant also wishes to thank the Examiner for the personal interview of December 20, 2004. This Reply is consistent with the issues discussed during the interview.

Applicant has cancelled claims 2, 10, 15, and 16; has amended claims 1, 3, 11, 14, and 17; and has added new claims 25-27 to claim further aspects of Applicant's invention. Accordingly, claims 1, 3-9, 11-14, and 17-27 are pending in this application. No new matter has been added by this Reply.

Applicant respectfully traverses the obviousness-type double patenting rejection of claims 1, 10, 14, and 16, for at least the reason that Leman fails to disclose or suggest all of the claim elements. Specifically, Applicant has rewritten claims 1 and 14 to incorporate the subject matter of claims 2 and 15, which were not rejected by the Examiner under the judicially created doctrine of obviousness-type double patenting. Accordingly, Applicant respectfully requests the rejection under the judicially created doctrine of obviousness-type double patenting, with respect to claims 1 and 14, be withdrawn.

Regarding the objection to claim 15, Applicant has cancelled claim 15 and rewritten claim 14 to include the subject matter of claim 15. The phrases “the first cam roller” and “the second cam roller” that were objected to in claim 15 have been amended within claim 14 to read “a first cam roller” and “a second cam roller”, respectively. Accordingly, Applicant requests the objection be withdrawn.

Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection of claims 1, 2, 10-12, and 14-17 in view of Allen et al. for at least the reason that Allen et al. does not disclose every claim element. For example, independent claims 1, 14, and 17 disclose a combination of elements including, among other things, a first cam lever pivotally connecting a first cam roller to a cam follower base, and a second cam lever fixedly connecting a second cam roller to the cam follower base. In addition, independent claim 11, from which claim 12 depends, discloses a combination of steps including, among other things, directing a pressurized fluid to a bore in a cam following assembly to move a piston into engagement with a first cam lever to connect a second cam with

an engine valve, and releasing the pressurized fluid from the bore to connect a first cam with the engine valve. Allen et al. fails to disclose at least these claim elements.

In the Office Action, the Examiner maintained that Allen et al. discloses a first cam lever pivotally connecting a first cam roller to a cam follower base, and a second cam lever fixedly connecting a second cam roller to the cam follower base. Specifically, the Examiner suggested that a finger follower (23) of Allen et al. constitutes the claimed first cam lever of independent claims 1, 14, and 17, that a finger follower (24) constitutes the second cam lever, and that a slider (16) constitutes the cam follower base. However, as illustrated in Fig. 4 of Allen et al. and as described in col. 7, lines 23-24 and col. 9, lines 18-26, both of finger followers (23) and (24) are pivotally connected to slider (16). Because both of finger followers (23) and (24) are pivotally connected to slider (16), neither one of finger followers (23) or (24) can be fixedly connected, as recited in independent claims 1, 14, and 17.

Further, the Examiner maintained that Allen et al. discloses directing pressurized fluid to a bore in a cam following assembly to move a piston into engagement with a first cam lever to connect a second cam with an engine valve, and releasing the pressurized fluid from the bore to connect a first cam with the engine valve. In particular, the Examiner suggested that finger follower (23) of Allen et al. constitutes the claimed first cam lever of independent claim 11, that finger follower (24) constitutes the second cam lever, that a housing (29) constitutes the bore, and that a piston (30) constitutes the piston. However, as described in col. 8, lines 11-25, the cam mechanism of Allen et al. includes first and second pistons associated with finger followers (23) and (24), respectively, that separately and independently actuate finger followers (23) and (24).

Releasing pressurized fluid from piston (30) to disengage finger follower (23) does not connect a cam with an engine valve. Likewise, releasing pressurized fluid from the second piston to disengage finger follower (24) does not connect a cam with an engine valve. Motion of one finger follower and associated cam of Allen et al. has absolutely no affect on the motion of the other finger follower and associated cam.

Because Allen et al. does not disclose all of the elements of independent claims 1, 11, 14, and 17, the section 102(b) rejection in view of Allen et al. with respect to claims 1, 11, 12, 14, and 17 is improper. Accordingly, Applicant requests the section 102(b) rejection of these claims be withdrawn.

Applicant respectfully traverses the 35 U.S.C. § 102(b) rejection of claims 1, 10, 14, and 16 in view of Wiekmeijer for at least the reason that Wiekmeijer fails to disclose all of the claim elements. In particular, Applicant has amended claims 1 and 14 to incorporate the subject matter of claims 2 and 15 that were not rejected under 35 U.S.C. § 102(b) in view of Wiekmeijer. Accordingly, Applicant requests the section 102(b) rejection in view of Wiekmeijer with respect to claims 1 and 14 be withdrawn.

Applicant respectfully traverses the 35 U.S.C. § 103(a) rejection of claims 9 and 24 over Allen et al. in view of Vorih et al. No *prima facie* case of obviousness has been established with respect to claims 9 and 24 for at least the reason that no combination of Allen et al. and Vorih et al. teaches or suggests every claim element. As recited above, independent claims 1 and 17, from one of which claims 9 and 23 depend, disclose a combination of elements including, among other things, a first cam lever pivotally connecting a first cam roller to a cam follower base, and a second cam lever

fixedly connecting a second cam roller to the cam follower base. Neither Allen et al. nor Vorih et al., alone or in combination, discloses at least these claim elements.

As recited above, Allen et al. illustrates in Fig. 4 and describes in col. 7, lines 23-24 and col. 9, lines 18-26, both of finger followers (23) and (24) being pivotally connected to slider (16) and neither one of finger followers (23) or (24) being fixedly connected. Vorih et al., which was only cited for its alleged teaching of a rocker arm and pushrod arrangement, fails to remedy these deficiencies. For at least these reasons, the section 103(a) rejection of claims 9 and 24 is improper and should be withdrawn.

Applicant respectfully traverses the 35 U.S.C. § 103(a) rejection of claims 2, 15, and 17 over Wiekmeijer in view of Allen et al. Because Applicant has amended independent claims 1 and 14 to incorporate the subject matter of claims 2 and 15, respectively, the section 103(a) rejection of claims 2 and 15 will be traversed with respect to independent claims 1 and 14. No *prima facie* case of obviousness has been established with respect to claim 1, 14, or 17 for at least the reason that no combination of Wiekmeijer and teaches or suggests every claim element. As recited above, claims 1, 14, and 17 disclose a combination of elements including, among other things, a first cam lever pivotally connecting a first cam roller to a cam follower base, and a second cam lever fixedly connecting a second cam roller to the cam follower base.

In the Office Action, the Examiner maintained that Wiekmeijer discloses the invention but correctly recognized that Wiekmeijer fails to disclose a cam following assembly, cam rollers, a cam following base, and cam levers. The Examiner maintained that a first and second cam roller (roller followers (26, 38)), a cam follower

base (slider (16)), and a first and second cam lever (finger followers (23, 24)) of Allen et al. provides for these deficiencies. However, as recited above, both of finger followers (23, 24) are pivotally connected to slider (16), and neither one of finger followers (23, 24) are fixedly connected.

Because no combination of Wiekmeijer and Allen et al. discloses or suggests all of the elements of independent claims 1, 14, and 17, the section 103(a) rejection of these claims is improper. Accordingly, Applicant requests the section 103(a) rejection of claims 1, 14, and 17, be withdrawn.

Applicant respectfully traverses the 35 U.S.C. § 103(a) rejection of claim 13 over Allen et al. in view of Cote. No *prima facie* case of obviousness has been established for at least the reason that no combination of Allen et al. and Cote discloses every claim element. As recited above, independent claim 11, from which claim 13 depends, discloses a combination of steps including, among other things, directing a pressurized fluid to a bore in a cam following assembly to move a piston into engagement with a first cam lever to connect a second cam with an engine valve, and releasing the pressurized fluid from the bore to connect a first cam with the engine valve. Allen et al. and Cote, alone and in combination, fail to disclose at least these claim elements.

As recited above, Allen et al. illustrates in Fig. 4 and describes in col. 7, lines 23-24 and col. 9, lines 18-26 both of finger followers (23) and (24) being pivotally connected to slider (16) and neither one of finger followers (23) or (24) being fixedly connected. Cote, which was cited only for its alleged teaching of a bleed valve, fails to remedy these deficiencies. For at least these reasons, the section 103(a) rejection of claim 13 is improper and should be withdrawn

Applicant submits that new claims 25-27 are neither anticipated nor obvious in view of the cited prior art. In particular, independent claim 25 recites a combination of elements including, among other things, a first cam lever pivotally connecting a first cam roller to a cam follower base, a second cam lever connecting a second cam roller to the cam follower base, and a locking device configured to selectively lock the first cam lever to the second cam lever. Support for new claims 25-27 may be found at least in Figs. 1, 3, and 5, as well as in paragraph 34 of the specification.


In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: December 23, 2004

By:   
Ryan C. Stockett  
Reg. No. 53,642